



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Committee against Torture**  
**Sixty-fifth session**

**Summary record of the 1683rd meeting\***

Held at the Palais Wilson, Geneva, on Tuesday, 13 November 2018, at 10 a.m.

*Chair:* Mr. Modvig

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\* No summary record was issued for the 1682nd meeting.

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*The meeting was called to order at 10 a.m.*

### **Consideration of reports submitted by States parties under article 19 of the Convention**

*Seventh periodic report of Peru (CAT/C/PER/7 and CAT/C/PER/QPR/7)*

1. *At the invitation of the Chair, the delegation of Peru took places at the Committee table.*
2. **Mr. Sánchez Velásquez** (Peru) said that the Committee's preceding concluding observations had served to guide the Government in the design and implementation of concrete policies, including the National Human Rights Plan 2018–2021. The Plan contained a number of objectives, including the development of a strategic pathway for dealing with cases of torture, the establishment of a multisector platform for coordination in tackling such cases, and the implementation, planned for 2019, of a single registry for cases of torture and a protocol for preventing and addressing the torture of adolescents in youth assessment and rehabilitation centres.
3. During the reporting period, the Government had taken steps to alleviate prison overcrowding. The implementation of a sentence conversion procedure, as part of the 2018 national prison policy, was intended to promote alternative forms of punishment such as electronic tagging and community service. The Dignity in Prisons policy comprised three lines of action, namely the construction of two new megaprisons that would accommodate approximately 6,500 individuals, the expansion of existing prison infrastructure, and the installation of beds designed to make better use of space.
4. Health care for persons deprived of their liberty was a Government priority. The Ministry of Health had instituted a visiting system to monitor the treatment of tuberculosis patients in 12 prisons. Since 2015, with support from the Global Fund to Fight AIDS, Tuberculosis and Malaria, the system had been expanded to cover 90 per cent of tuberculosis cases.
5. The Productive Prisons programme, aimed at helping prisoners reintegrate into the labour market, had shown encouraging results. The Minister of Justice and Human Rights had visited 32 prisons throughout the country to observe the progress made, and 130 agreements had been signed with private enterprises undertaking social responsibility activities in prisons. A total of 304 workshops had been set up, covering 10 per cent of the prison population.
6. Nine Youth Assessment and Rehabilitation Centres and 25 adolescent guidance services had been transferred from the Judiciary to the Ministry of Justice and Human Rights. The authorities intended to provide education to more than 3,800 adolescents in conflict with the law, enabling them to reintegrate into society.
7. In April 2018, by means of Ministerial Decision No. 487-2018-IN, the human rights handbook for police staff had entered into force. The handbook had been developed with the aim of providing human rights training for police officers, with a particular focus on the reasonable use of force. Every police officer had an obligation to treat persons deprived of their liberty with humanity and dignity.
8. In the area of violence against women, the President of Peru had used his 2018 annual address to the nation to urge the three branches of power and the general public to work to eradicate macho culture and all forms of violence against women. An emergency commission had been established to make proposals aimed at preventing violence against women and handling cases. The commission's work centred around 11 urgent areas of action, including the adoption of a protocol for dealing with cases of femicide, the establishment of a Safe Schools programme, and the development of a mapping tool to record cases of gender-based violence by region.
9. In addition, the Government had passed Act No. 30819, which expanded the criminal provisions relating to violence against women and domestic violence, Act No. 30838, which imposed harsher sentences for offences against sexual freedom and inviolability, and Legislative Decree No. 1410, which incorporated the offences of stalking

and sexual harassment into the Criminal Code. The Decree, which had been adopted in September 2018, had strengthened the Public Defence Service and facilitated the provision of care and legal representation for vulnerable groups.

10. The Government was also striving to improve access to reparations for persons who had been victims of sexual violence between 1980 and 2000. The Reparations Board had already identified and registered 4,624 female victims. In August 2018, List No. 26 of the Economic Reparations Programme had been adopted, thereby authorizing the payment of reparations to 687 civilians and police and military personnel who had suffered serious human rights violations.

11. The newly adopted guidelines on reparations plans tailored to women and lesbian, gay, bisexual, transgender and intersex (LGBTI) persons were intended to facilitate the granting of reparations using a gender-sensitive approach that was rooted in equality and took account of diversity. The Government had begun to make reparation payments to persons who had suffered multiple human rights violations; 96 per cent of such cases had already been resolved.

12. With regard to persons who had disappeared between 1980 and 2000, the authorities had so far recovered and identified 1,188 individuals and returned their remains to their families. In September 2018, the Government had adopted Legislative Decree No. 1398 establishing a genetic database for the search for persons who had disappeared.

13. Under the National Human Rights Plan 2018–2021, in September 2018 a working group had been established to provide a comprehensive response to forced sterilizations that had occurred between 1996 and 2000. The Public Prosecution Service had laid charges in relation to 2,000 victims.

14. In September 2018, the Government had adopted Legislative Decree No. 1384, which recognized the legal capacity of persons with disabilities on an equal basis with others and removed the restrictions on voting, marriage and exercise of parental authority that had previously been imposed on them. Legislative Decree No. 1417 had also been enacted to promote the inclusion of persons with disabilities, in particular with regard to reasonable accommodation in recruitment processes and in the workplace.

15. There were currently 296 persons with disabilities in prisons, whose status had not been legally certified; in order to address the situation, the Government intended to train 13 doctors in the issuance of such certification.

16. In the area of contemporary forms of slavery, under the National Action Plan against Trafficking in Persons 2017–2021, the Government had adopted 15 regional plans and was using new tools to ensure large-scale dissemination of information on the issue. During the previous year, residential reception centres had provided care for 65 child and adolescent victims of trafficking. A team of labour inspectors had been set up to ensure that fundamental rights were respected with regard to forced and child labour, and bilateral agreements had been concluded with Chile and Argentina on cooperation in the fight against human trafficking in the region.

17. In the area of asylum, more than 500,000 persons had fled to Peru as a result of the serious humanitarian crisis that was unfolding in Venezuela. The authorities had found creative solutions such as the issuance of temporary residence permits. Between 2012 and 2018, 1,323 persons from 49 countries had been granted refugee status, including 466 Venezuelans. No refugees or asylum seekers had been extradited or expelled from Peru or subjected to refoulement.

18. The national mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, which was part of the Ombudsman's Office, had published its second report in June 2018. The Government was committed to implementing the recommendations of the Ombudsman's Office and had made every effort to address the difficulties that had been reported to it in connection with visits to prisons.

19. The definition of torture that had been incorporated into the Criminal Code in January 2017 was compatible with the one set forth in the Convention. Although the Committee had expressed concern that the previous definition had not included

discrimination as one of its elements, it had recognized in its general comment No. 2 on implementation of article 2 by States parties that broader domestic definitions also advanced the object and purpose of the Convention. The Inter-American Convention to Prevent and Punish Torture did not require that there be a specific reason for the infliction of torture in order for the act to qualify as that offence. Article 321 of the Criminal Code reflected that same approach. In addition, criminal legislation in Peru made provision for harsher sentences in cases where torture was inflicted on vulnerable groups or when the perpetrator was a member of the armed forces, the National Police or other security services.

20. The Government's commitment to fulfilling its international human rights obligations was reflected in the Bicentennial Plan, which contained the most important national development policies to be implemented in the run-up to 2021, when Peru would celebrate 200 years of independence. The full exercise of fundamental rights was the overarching driver in those policies.

21. **Mr. Heller Rouassant** (Country Rapporteur) said that the inclusion of the element of discrimination of any kind in the domestic definition of torture was of fundamental importance given the ethnic make-up of the State party, the social inequalities found there and the problems of discrimination against women and the lesbian, gay, bisexual, transgender and intersex (LGBTI) communities. The current definition referred to the use of methods that obliterated the personality of the victim; the wording of the Inter-American Convention to Prevent and Punish Torture was broader in that it referred to "methods intended to obliterate".

22. He would appreciate the delegation's comments regarding the absence of provisions for the disbarring of civil servants or public officials involved in torture and for the prosecution of judicial personnel implicated in such offences. The Committee was concerned that less serious offences, such as aggravated robbery, carried harsher penalties than offences relating to acts of torture.

23. He would be grateful for additional details of the funding allocated to the Ombudsman's Office, which lacked the technical, logistical, financial and human resources it required to carry out its mandate. It was unclear how tasks were divided between the Office and the national mechanism for the prevention of torture. The work of the mechanism appeared to be concentrated in Lima; there was an urgent need to expand its reach into the regions. The Committee would welcome information on the procedures for appointing officials to the Office, particularly in the light of the fact that for political reasons the post of Ombudsman had remained unfilled for the five-year period preceding 2016.

24. Urgent action was required in a number of areas, including the issue of prison overcrowding, the lack of virtual hearings for persons in detention, the need to increase the use of alternatives to detention, inappropriate treatment of women and foreign nationals in prisons, human rights violations in psychiatric facilities, deaths in custody, particularly in police stations in Lima, and the use of torture as a form of discipline by military personnel. It would be helpful to hear the delegation's comments on all of those matters. Information would be welcome on the implementation of the recommendations issued by the national mechanism for the prevention of torture and their impact on the development of public policies.

25. He asked whether it was true that, although the National Human Rights Plan 2018–2021 provided for the establishment, by 2019, of a national protocol to prevent and combat torture and ill-treatment, and, by 2020, of a register of cases and the action taken in respect of them, the Plan covered only juvenile rehabilitation centres, rather than all prisons. The delegation should indicate whether the Plan provided for rehabilitation and reintegration programmes for victims of torture and ill-treatment.

26. Noting the creation, in 2014, of the Directorate for the Investigation of Trafficking in Persons and Smuggling of Migrants within the Peruvian National Police, he asked why the issues of human trafficking and people smuggling had been treated on the same footing and requested information on the implementation of Act No. 28950 on Trafficking in Persons and Smuggling of Migrants.

27. According to the Office of the United Nations High Commissioner for Refugees, care was needed in the application of Legislative Decree No. 1350 on Migration and its implementing regulations to ensure that asylum seekers did not face barriers on entering the State party and that refugees had access to a permanent residence. Noting that Peru was experiencing the arrival of large numbers of Venezuelan migrants, he asked whether asylum claims were analysed in detail to assess whether applicants had been tortured or were at risk of being subjected to torture in the event of their return to their country of origin. He would like to hear the delegation's thoughts on the fact that, under a law adopted in August 2018, asylum seekers were required to present a passport, even though many of them did not have one. He would also appreciate comments on the 31 October deadline for applying for a temporary residence permit and on the policies adopted by the Government to deal with the migrant crisis that was affecting South America.

28. He would be grateful for an update on the status of the proposal, mentioned during the State party's most recent universal periodic review, to reform the Criminal Code, including by bringing the definition of crimes into line with the Rome Statute of the International Criminal Court.

29. It was clear that, despite the progress made by the State party with regard to the prevention of torture, cases continued to occur, mainly in places of deprivation of liberty and military barracks. According to the Ombudsman's Office, between 1 April 2017 and 31 May 2018, there had been 174 recorded cases of violations ranging from torture and ill-treatment to arbitrary deprivation of life. Figures from the national preventive mechanism showed that 40 per cent of the young inmates interviewed at Ancón II prison had claimed to have suffered physical violence at the hands of the police. In its first annual report, the mechanism had identified deaths in police custody as a major issue. While the police had claimed that some had been deaths resulting from suicide, it had been determined that, in certain cases, the deceased had been assaulted and murdered. Notable examples included those of Mr. J.A.D. in 2003 and Mr. J.A.R.E., who had been arrested on 29 April 2017 and had been found dead the following day.

30. The Human Rights Commission had observed a number of shortcomings during the investigation and prosecution of cases of torture. Some prosecutors and judges refused to open investigations or inquiries into torture or to order the detention of perpetrators and determine the responsibilities of high-ranking State officials. Magistrates continued to use medical certificates as the sole basis for deciding whether torture had been committed, without taking into account the context in which injuries had been inflicted. Persons found guilty of torture were sometimes given suspended sentences or sentences below the minimum established by law. In October 2013, for instance, Lieutenant Urbina Carrasco had been sentenced to 4 years' imprisonment for the torture of three individuals in Ayacucho in 1990, despite having been sentenced by the same criminal court chamber in 2010 to 6 years' imprisonment for the torture and murder of another individual who had been detained together with the other three.

31. The National Criminal Court returned a high number of acquittals. In 2012, it had delivered seven judgments in torture cases, only one of which had been a conviction. There was also an inadequate implementation of the Istanbul Protocol. The failure to conduct proper forensic medical examinations had led to the issuance of highly dubious rulings in cases where the existence of a systematic practice of torture had been ascertained, as in a case dating back more than 30 years that concerned the naval military base in Huanta.

32. Turning to paragraph 148 of the State party's report ([CAT/C/PER/7](#)), he asked why the Clinical Forensic Division of the Institute of Legal Medicine and Forensic Science had so few staff members, bearing in mind the size of Peru and of its population. He found worrying the acknowledgement in paragraph 149 that the Institute did not yet have an independent register of torture cases and required additional funding to enable it to improve its infrastructure and material and human resources.

33. The Human Rights Commission had highlighted the lack of both a register of allegations of torture and an integrated database, without which it was difficult to collate statistics on torture in the country and develop appropriate legal measures to prevent and punish it. Although the State party had implemented a comprehensive protection

programme for witnesses, experts, victims and collaborators involved in criminal investigations and proceedings, the programme did not provide for any specific measures applicable in cases of torture or other serious human rights violations. He invited the delegation to comment on the matter and on reports that victims of torture and their relatives were deterred from submitting complaints to the competent authorities.

34. On 12 January 2014, the Congress of the Republic had adopted Act No. 30151, which had amended article 20 (11) of the Criminal Code to grant immunity from criminal liability to police and military officials who caused injuries or deaths in the performance of their duties or in the use of their weapons or other means of defence. He wished to know how the Act, which had been criticized as opening the door to impunity in cases involving an excessive use of force, could be reconciled with Legislative Decree No. 1186 and its implementing regulations, which made it impossible for a police officer who arbitrarily used force to be exonerated from criminal liability, either in full or in part.

35. In paragraph 158 of the State party's report, it was mentioned that, under the Peruvian National Police Act, adopted through Legislative Decree No. 1267, police officers who used force must do so in strict compliance with the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. There was no reference, however, to the use of force by members of the armed forces. His understanding was that Legislative Decrees Nos. 1094, on the Military and Police Criminal Code, and 1095, on rules for the use of force in the national territory, had been the subject of a judgment by the Constitutional Court in response to a challenge to their constitutionality. He asked whether that was correct, and noted that article 27 of Legislative Decree No. 1095, which extended military jurisdiction to include any illegal acts committed by the military in the application of the Decree or in the exercise of their duties, had been criticized for potentially preventing ordinary courts from handling cases of human rights violations committed by military officials against civilians. In that connection, he would be grateful for an explanation of the exemptions for and restrictions on the use of force by the armed forces in states of emergency, armed conflict and social protests.

36. According to Human Rights Watch, in 2016, the Ministry of Interior had announced an investigation into a group of 28 police officers, including a general, who had allegedly carried out at least 20 extrajudicial killings between 2009 and 2015, and had falsely reported the victims as criminals killed in combat. At the time, at least 11 of those officers had been awaiting trial.

37. He would appreciate updated information on the status of the legal proceedings into the massacre at El Frontón prison in 1986 and confirmation of whether, in August 2017, several military officials had been convicted of the torture, enforced disappearance and extrajudicial execution of 53 persons in 1983 in the Los Cabitos military barracks in Ayacucho.

38. The delegation should indicate whether there had been any complaints from lesbian, gay, bisexual, transgender and intersex (LGBTI) persons of violent attacks, including torture and ill-treatment, by members of the National Police or the armed forces, municipal security patrol officers or prison officials. While he welcomed the acknowledgement, in the National Human Rights Plan, that such persons should qualify for protection as a vulnerable group, it was important for the State party to draft specific legislation in that regard in consultation with civil society organizations.

39. In reference to paragraph 173 of the State party's report, he asked why so many states of emergency had been declared during the period 2012–2016, and noted that two human rights treaty bodies had expressed concern at reports of grave human rights violations committed during states of emergency, including arbitrary detention, extrajudicial executions and torture, and of complaints of excessive use of force, including recourse to lethal weapons.

40. The Truth and Reconciliation Commission estimated that more than 70,000 people had died or been forcibly disappeared during the period 1980–2000. Many had been victims of atrocities committed by Sendero Luminoso (Shining Path) and other insurgent groups, while others had been victims of human rights violations perpetrated by State officials. The

Commission had received 6,443 complaints of torture and other cruel, inhuman or degrading treatment or punishment related to that period, of which 75 per cent concerned acts that the Commission had attributed to State officials or persons acting with their authorization or acquiescence. According to the Central Register of Victims, however, the number of registered victims of torture had stood at 35,383 in October 2018. He would be interested to know the reasons for the discrepancy between the figures reported by the Commission, on the one hand, and the Register, on the other.

41. Great progress had been made through the adoption of the Act on the Search for Persons Who Disappeared during the 1980–2000 period of violence, the establishment of a working group to provide advisory services during the Act’s implementation and the adoption of the National Plan to Search for Persons Who Disappeared between 1980 and 2000. An update on the status of the truth and reconciliation process as a whole would be appreciated.

42. On 24 December 2017, the President of Peru had pardoned one of his predecessors in office, Alberto Fujimori, who had been convicted of crimes against humanity. However, on 3 October 2018, Mr. Fujimori’s pardon had been revoked by the Supreme Court and he had been ordered to return to prison, on the grounds that the pardon was incompatible with the country’s international obligations. His understanding was that the matter remained pending, and that the possibility of house arrest was being explored. He would welcome updated information and comments from the delegation in that regard.

43. In the past, both the Committee and the Human Rights Committee had expressed concern that a large number of sexual assaults against women and children during the period of armed conflict had gone unreported, that few such acts had been investigated, that the perpetrators had not been convicted and that the victims had not been provided with an effective remedy. The Truth and Reconciliation Commission had recorded 85 cases of rape of persons under 18 years of age during the armed conflict. In 70.59 per cent of those cases, the perpetrators had been State officials. To date, no one had been put on trial for the recruitment or use of children during the conflict.

44. Referring to paragraph 190 of the State party’s report, which stated that, on 6 December 2016, proceedings had been dismissed in cases involving 77 victims of forced sterilization because of a lack of evidence, he noted that it had been the seventh time in 16 years that such action had been taken. He understood, however, that the cases in question had since been reopened. He wished to know whether that was true and, if so, on what basis. The delegation should comment on what plans there were for investigations in that respect.

45. Turning to paragraph 236 of the report, he asked whether the process of drafting a protocol on protecting human rights defenders in Peru had been completed.

46. With regard to the issue of terrorism, he drew attention to a concern expressed by the Human Rights Committee about the broad definition of “hostile group” provided for in Legislative Decrees Nos. 1094 and 1095, which could potentially be interpreted as including individuals taking part in demonstrations or social movements.

47. To conclude, he agreed with the assertions in the report that many actions were still to be implemented and that there was a need to improve information management and the collection of data on torture, to strengthen the budget and institutional capacity of the national preventive mechanism and to guarantee the right to redress for victims of the 1980–2000 period of violence.

48. **Mr. Rodríguez-Pinzón** (Country Rapporteur) said that the assertion by the State party in its periodic report (CAT/C/PER/7) that the Ministry of Justice and Human Rights had provided legal aid to defendants and victims in numerous criminal proceedings for torture in a total of 113 cases between 2014 and 2016, of which 12 had concerned victims of torture and the rest had concerned defendants, seemed to suggest a marked imbalance between the services provided by the State to victims of torture and those provided to defendants. He asked whether the State party had analysed those figures to ascertain the cause of the discrepancy, and requested statistics from 2012 to the present year in order to provide a more complete picture.

49. Noting that it was unclear from the report how many persons deprived of their liberty had been provided with State legal aid because the figures given, for 2012 to 2016, were combined with family legal aid and the defence of victims, he asked the State party to provide specific figures for each year, updated to the present year and disaggregated by sex, age, ethnic origin and nationality, among other aspects. The State party had noted that if a defendant believed that his or her rights were not being duly respected, he or she could request the examining judge to rectify the omission or order the appropriate corrective or protective measures: while the guarantees provided were of paramount importance in the formal legal framework, proper evaluation of their implementation in practice required statistics. The State party should therefore indicate in how many cases, during the period under review and year by year, the defendant had requested the examining judge to provide legal protection, and in how many of those cases the appropriate corrective or protective measures had been taken, again disaggregating those data by sex, age, ethnic origin and nationality, among other aspects. He repeated the Committee's request in the list of issues prior to the submission of the report (CAT/C/PER/QPR/7) for information regarding the current status of the draft implementing regulations for the National Police Act; if a text had been adopted, a copy should be provided to the Committee.

50. He welcomed the information provided by the State party in its report on cases of gender-based violence, including domestic violence and femicide, and on the adoption of relevant legislation. It was important to conduct detailed statistical monitoring on the administrative and legal response in individual cases in order to accurately evaluate the extent to which the State party was fulfilling its obligation to take measures against gender-based violence. The State party could thereby analyse why the increase in the number of cases of femicide was due, at least in part, to inadequate legal response. The Committee therefore reiterated its request for the State party to provide information on the number of investigations, prosecutions, convictions and sentences imposed in cases of gender-based violence during the period under consideration up to the present year, including information disaggregated by ethnic origin or nationality of the victims.

51. Turning to article 10 of the Convention on the obligation of States parties to provide adequate training to public officials, he welcomed the statistical information in the report on the training provided by the Judicial Training School and the marked increase in coverage between 2012 and 2014. However, since 2014, the number of individuals benefiting from such training had decreased considerably, from 2,164 persons in 2014 to 366 in 2016. The State party had failed to provide information on the content and scope of training given to the military forces, and had made only very general references to the training programmes for various public officials, without indicating whether they covered the provisions of the Convention, including the obligation to investigate breaches and to prosecute offenders. Similarly, the State party had not specified the location of training programmes and had merely indicated that public defenders attached to the Ministry of Justice had delivered training in "various" prisons and that "different" police units across the country had received training in human rights, without identifying the regions in which those efforts had been concentrated.

52. While the entry into force of the human rights handbook for police staff was to be welcomed, the Committee had received information on the ill-treatment of young students at military and National Police training academies, which would influence the way in which those new officers conducted their work in the future. He therefore requested the State party to provide detailed information on the content of training activities in the various regions of the country, indicating the specific measures that had been taken to prevent the ill-treatment of young academy students and to educate them on the limits of military discipline.

53. Given the acknowledged lack of a methodology to assess the effectiveness and impact of the various training programmes on human rights and torture, it was impossible to know what impact those training programmes were having on the prevention of torture in the everyday work of public officials, in particular members of the armed forces and National Police officers. The prevention of torture and ill-treatment was the ultimate goal of the training programmes, and the absence of a mechanism to determine their impact was a structural flaw that rendered the State party's efforts of little use. Such a methodology would enable the State party to improve information about training, refine its content,



adjust the profile of students and design statistical models to provide better information about future programmes and determine in a scientific manner whether any reduction in human rights violations could be attributed to those efforts. He asked whether the recently adopted human rights handbook for police staff dealt with any of those shortcomings related to the assessment of training.

54. He noted the State party's assertion that special courses had been organized in Lima for legal advisers, judges and prosecutors between 2012 and 2016 on a range of topics related to human rights, international humanitarian law and international criminal law. However, the State party had failed to indicate whether those courses had covered the topic of how to detect and document the sequelae of torture or how to apply the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) or whether forensic doctors and medical personnel took such courses. He therefore repeated the Committee's request for information in that regard and for statistics on such training. In addition, the State party should indicate whether those public officials' training curriculum covered gender-based discrimination or discrimination based on ethnic origin as a potential motivation for the offence of torture.

55. With regard to article 11 of the Convention, he thanked the State party for providing, in particular in annexes 10 to 12 to its report, disaggregated statistics on the number of pretrial detainees and convicted prisoners and on the occupancy rate of all places of detention, including juvenile detention centres, in response to the Committee's request. While the State party had not responded directly to the Committee's specific request for detailed information on the conditions of detention in the Lurigancho, Trujillo, Chiclayo, Challapalca, Puno (Yanamayo) and Callao prisons, table 7 of annex 10 to the report revealed that all except those in Challapalca and Puno were overcrowded. The Committee was particularly concerned at the situation of overcrowding that was evident from those data. Accordingly, he requested the State party to indicate what measures it was taking to remedy that situation, bearing in mind that the Committee had received information indicating that, to July 2018, the prison population in Peru had seen an increase of 4 per cent compared to the previous year, which would require the construction of two prisons each year for 3,500 prisoners if that rate of increase continued.

56. While the Committee noted the measures described by the State party to alleviate prison overcrowding, and improve the infrastructure, management and security of prisons and the treatment of detainees, including juveniles, the State party did not specifically mention whether it had taken measures to address prolonged pretrial detention and the shortage of specialized prison staff. Furthermore, the Committee had received information indicating that there was no registry of persons deprived of their liberty who belonged to vulnerable groups, such as persons with disabilities, lesbian, gay, bisexual, transgender and intersex persons and members of indigenous communities.

57. He therefore requested the State party to provide information on specific measures taken to improve the conditions of prolonged pretrial detention, to explain the lack of specialized staff in prisons and to submit disaggregated information on vulnerable detainees in order to guarantee and monitor the special treatment that they required.

58. Noting the measures described in the report on electronic tagging, house arrest and productive prisons as alternatives to the deprivation of liberty, on gender mainstreaming in prison policy, on guidelines for supporting women deprived of liberty, and on the provision of appropriate care to minor children of incarcerated mothers to ensure their healthy, all-round development, he asked the State party to indicate what mechanisms were in place to monitor the practical implementation of those policies and measures and what results had been achieved since their introduction.

59. The Committee had raised serious concerns over the conditions of detention in certain prisons, and the State party had not answered the question as to whether it had considered closing the Challapalca and Yanamayo prisons; indeed, the Committee had received information that those prisons had recently been expanded. He therefore asked the State party to respond specifically to that concern of the Committee. With reference to the new megaprisons mentioned by the head of delegation in his opening statement, he asked in

what locations and at what altitude they would be constructed. He further reiterated the Committee's request for the State party, given its regrettable lack of response in that regard, to comment on reports of unhealthy living conditions in punishment cells in prisons and of the arbitrary imposition of disciplinary sanctions on prisoners, and on reports that prisoners' family members were often subjected to invasive body searches, which failed to comply with minimum standards of hygiene.

60. On the increase in the incidence of multi-drug-resistant tuberculosis among the prison population, he asked the State party to indicate how it was monitoring and evaluating whether the measures taken were effectively controlling the number of cases of tuberculosis in prisons, and to provide the figures that it currently had in that regard and information on trends since those measures had been taken. In particular, he would like to know whether there was a system in place to monitor the number of detainees with tuberculosis or other diseases. If so, the State party should provide statistics, disaggregated by age, sex, ethnicity and nationality, on the incidence rate of tuberculosis among detainees.

61. The Committee would also be interested to know how detainees' health was assessed upon arrest, whether they were educated to recognize the symptoms of tuberculosis and seek medical attention if necessary, whether all detainees diagnosed with tuberculosis were relocated to avoid infection of healthy prisoners (in accordance with Act No. 30287 on the Prevention and Control of Tuberculosis in Peru), whether all detainees infected with other diseases were kept in isolation, how often medical professionals were able to assess the health of detainees and whether prison officials were present during medical examinations of detainees.

62. He wondered why the State party, in response to the Committee's request for disaggregated statistics on the number of deaths in custody during the period under consideration, had provided data up to 2014 only. The State party should provide updated figures to the present year in order to give the Committee a more precise picture of trends. Similarly, the State party had not provided information disaggregated by ethnic origin or nationality of the deceased, and he requested it to do so. He also reiterated the Committee's request for the State party to provide information on the results of the investigations into deaths in custody and on the measures taken to prevent similar cases from occurring, and to indicate whether relatives had received compensation in any of those cases.

63. Turning to article 14 of the Convention, he said that it was unfortunate that, as indicated by the State party in its report, no information was available regarding redress and compensation measures ordered by the courts for victims of torture. That lack of information was especially worrying given that the Committee had placed particular emphasis on the crucial importance, under the Convention, of ensuring the compensation of victims of torture and ill-treatment and their relatives. Without monitoring of the practical implementation of State policies, it would be impossible to take effective measures or to improve them in the future. He insisted that the State must design mechanisms for the statistical monitoring of redress and compensation measures ordered by the courts and actually provided to victims of torture or their families, and provide the information obtained to the Committee.

64. The Committee was concerned about reports that there were no legal provisions guaranteeing reparation for victims of torture or ill-treatment inflicted since the internal armed conflict, and that such reparation was dependent on the establishment of the criminal responsibility of the perpetrator. Therefore, it would be interesting to know what statutory amendments would be required to bring current reparation mechanisms into line with the Convention. While he welcomed the information provided on the various initiatives for victims of torture, he would appreciate the delegation's comments on: the exclusion of beneficiaries from the Educational Reparations Programme; whether victims of torture who were thought to belong to subversive organizations or had been tried for terrorism-related offences were indeed excluded from the Comprehensive Reparations Plan; alleged irregularities in the Collective Reparations Programme; comprehensive rehabilitation services tailored to victims of torture; and whether the mental health services described in the report were part of a programme or were ad hoc community-level measures.

65. It would be useful to know whether the provision in the new Code of Criminal Procedure that invalidated the legal effect of evidence obtained in violation of a person's fundamental rights included confessions extracted under torture or ill-treatment and whether the failure to mention cases in which that safeguard had been applied was due to the lack of a statistical follow-up mechanism or to the fact that no such cases had been brought to trial. With regard to the amendment to the Criminal Code criminalizing cruel, inhuman or degrading treatment or punishment, he asked about its current status and whether its adoption was a legislative priority. He took note of the information about the measures taken to protect human rights defenders, but would appreciate a response to the Committee's questions regarding the assessment of their effectiveness and the specific measures adopted to protect journalists.

66. While welcoming the information provided on the State party's efforts to act on the Committee's and other treaty bodies' recommendations regarding reproductive health and rights, he nevertheless expressed concern at reports that the policy to provide emergency oral contraceptives free of charge was not being optimally implemented. The Committee was also concerned by the fact that, because of the lack of exceptions to the abortion ban in cases of rape, incest and serious fetal abnormalities, clandestine abortions were one of the leading causes of maternal mortality in the State party.

67. **Ms. Gaer** said that, errors notwithstanding, she commended the State party on the extensive statistical data provided in the annexes to its report. She wished to know what systems had been put in place to ensure that Act No. 30364 on the prevention, punishment and eradication of violence against women and members of the family unit was implemented. She also wished to know what steps were being taken to change the focus of the police and the judges on maintaining family unity through mediation in cases of domestic violence, whether it was true that the budget was insufficient to properly enforce the Act and that the Act only contemplated domestic violence and not other forms of gender-based violence and, if so, what might be done to correct the situation. It would be interesting to know the reasons behind the significant discrepancy between the number of complaints of sex crimes reported by the police and those reported by the Public Prosecution Service. She would appreciate the delegation's comments on efforts to prevent gender-based violence, in particular the budget for such activities, on the instructions given to the police regarding rights and treatment of lesbian, gay, bisexual and transgender (LGBT) persons and on whether there was in fact systematic abuse of transgender persons in particular.

68. **Ms. Belmir** asked whether, in cases of torture and ill-treatment committed during the armed conflict, the courts still accepted direct evidence only and did not hear witnesses and whether it was truly necessary to impose states of emergency so frequently given their impact on human rights.

69. **Ms. Racu**, noting that first-time offenders were not separated from repeat offenders in prisons and that a climate of insecurity was created by the transfer of prisoners between facilities to curb extortion by prison-based gangs, asked what specific steps were being taken to reduce overcrowding, lower the incarceration rate and adopt non-custodial measures, including for juvenile offenders.

70. **Mr. Hani** said that he welcomed the State party's decision to make public the report of the Subcommittee on Prevention of Torture on its 2013 visit and, referring to paragraph 75 of that report, wished to know what steps had been taken to implement the Subcommittee's recommendations regarding due process and disciplinary sanctions. He would appreciate information on whether applications for refugee status and asylum were assessed individually and whether applicants were screened for signs of torture. Lastly, did the Government intend to increase its contribution to the Voluntary Fund?

71. **Ms. Zhang** said that, while various measures had been adopted to improve prison conditions, several issues remained of concern, such as inadequate sleeping and sanitation facilities, overcrowding, poor food quality, inmate violence, limited access to medical services, weapons smuggling and corruption among prison staff. Accordingly, she wished to know how the State party planned to address those issues, especially at Challapalca prison. Referring to annex 9 of the report, she would appreciate further details on the

aspects of the Convention covered in training courses. It was regrettable that training programmes were not assessed.

72. **Mr. Landa Burgos** (Peru) said that the proceedings relating to the forced sterilization of indigent persons, which had been initiated in 2002, had been closed and reopened a number of times. Charges had very recently been laid again and the case now involved not only the doctors who had performed the procedures but also the health-care authorities.

*The meeting rose at 12.50 p.m.*